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BEFORE THE FEDERAL ELECTION COMMISSION

2011 FEB -8 P 12: 00

In the Matter of)

MUR 6372)

JOHN CAMPBELL FOR CONGRESS)

AND KELLY LAWLER, AS TREASURER)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

CELA

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

and are deemed inappropriate for review by the Alternative Dispute Resolution

Office are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters, compared to other higher-rated

matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to

dismiss these cases. The Office of General Counsel scored MUR 6372 as a low-rated matter.

According to the complainant, Jaclyn Hartfield, an advertisement in the September

2010 issue of Orange County Jewish Life magazine, which featured Congressman John

Campbell, constituted a "public communication," pursuant to 2 U.S.C. § 431(22) and

11 C.F.R. § 100.26, but failed to include a disclaimer stating who had paid for the

advertisement, as required by the Federal Election Campaign Act of 1971, as amended ("the

Act"), and underlying Commission regulations. A copy of the advertisement, which is

attached to the complaint, includes a photograph of Congressman Campbell, which is

captioned "Congressman John Campbell Proudly Serving California's 48th District." The text

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1 below Mr. Campbell's photograph offers readers "... warm wishes during the High Holy
2 Days"¹ ... from "Congressman John and Catherine Campbell."²

3 The complainant asserts that she contacted Mr. Campbell's Congressional office on
4 September 8, 2010, and was informed that Mr. Campbell's re-election campaign committee,
5 John Campbell for Congress and Kelly Lawler, in her official capacity as treasurer ("the
6 Committee") had paid for the advertisement. Therefore, according to the complainant, the
7 failure of the Committee to include an appropriate disclaimer on the advertisement constitutes
8 a violation of the Commission's disclaimer requirements, as set forth in the Act and
9 underlying Commission regulations.

10 In response, Committee treasurer Kelly Lawler maintains that the advertisement was
11 "grassroots and non-electoral in nature [and] was published in a community magazine." She
12 admits, however, that the Committee paid approximately \$760 for the advertisement, and that
13 the advertisement should have contained a disclaimer because it constituted a "public
14 communication," as set forth in 11 C.F.R. § 100.26. According to Ms. Lawler, the
15 Committee's failure to include the appropriate disclaimer was inadvertent, and she further
16 asserts that the Committee has "enhanced its compliance measures" to ensure that future
17 public communications contain disclaimers. Finally, Ms. Lawler asks for the Commission to
18 exercise its prosecutorial discretion and dismiss the complaint in light of the low cost of the
19 advertisement and the technical and inadvertent nature of the violation.

¹ The phrase "High Holy Days" refers to the Jewish holidays of Rosh Hashanah and Yom Kippur. In 2010, both holidays fell in September.

² Congressman Campbell's on-line biography states that Catherine Campbell is his wife.

1 The Act and Commission regulations require that whenever a political committee
2 makes a disbursement to finance a public communication, the communication must
3 include a disclaimer that clearly states that it was paid for by the political committee.
4 See 2 U.S.C. § 441d(a)(1); 11 C.F.R. §§ 110.11(a)(1) and (b)(1). The term "public
5 communication" means, in pertinent part, a communication by means of any magazine,
6 newspaper, or any other form of general public political advertising. 2 U.S.C. § 431(22);
7 11 C.F.R. § 100.26.

8 The advertisement in this case appeared in a magazine and, therefore, constituted a
9 "public communication." Due to the fact that the advertisement was paid for by the
10 Committee, it should have included a disclaimer, as the Committee acknowledges in its
11 response. We note, however, the Committee indicated in its response and disclosed in its
12 2010 October Quarterly Report, that it paid only \$760 to run the advertisement.

13 Therefore, in light of the relatively low dollar amount at issue, and in furtherance of
14 the Commission's priorities and resources relative to other matters pending on the
15 Enforcement docket, the Office of General Counsel believes that the Commission should
16 exercise its prosecutorial discretion and dismiss this matter. See *Heckler v. Chaney*, 470 U.S.
17 831 (1985). Additionally, this Office recommends that the Commission remind the
18 Committee about the use of disclaimers on public communications paid for by political
19 committees, pursuant to 2 U.S.C. § 441d(a)(1) and 11 C.F.R. §§ 110.11(a) and (b).

RECOMMENDATIONS

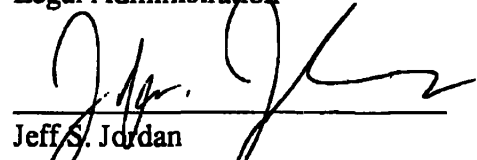
The Office of General Counsel recommends that the Commission dismiss MUR 6372, close the file, and approve the appropriate letter. Additionally, this Office recommends that the Commission remind John Campbell for Congress and Kelly Lawler, in her official capacity as treasurer, of the disclaimer requirements for public communications paid for by political committees, as set forth in 2 U.S.C. § 441d(a)(1) and 11 C.F.R. §§ 110.11(a) and (b).

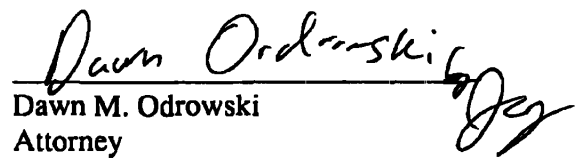
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